

106TH CONGRESS
1ST SESSION

H. R. 2680

To replace the Immigration and Naturalization Service with the National Immigration Bureau, to separate the immigration enforcement and adjudication functions performed by officers and employees of the Bureau reporting to the Director, to amend the Immigration and Nationality Act to restore eligibility for adjustment of status under section 245(i) of that Act and to restructure the use of fees collected for providing adjudication and naturalization services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Ms. JACKSON-LEE of Texas (for herself, Mr. CONYERS, Mr. BERMAN, Mr. GUTIERREZ, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To replace the Immigration and Naturalization Service with the National Immigration Bureau, to separate the immigration enforcement and adjudication functions performed by officers and employees of the Bureau reporting to the Director, to amend the Immigration and Nationality Act to restore eligibility for adjustment of status under section 245(i) of that Act and to restructure the use of fees collected for providing adjudication and naturalization services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Immigration Restruc-
3 turing and Accountability Act of 1999”.

4 **TITLE I—NATIONAL**
5 **IMMIGRATION BUREAU**

6 **SEC. 101. ESTABLISHMENT OF NATIONAL IMMIGRATION**
7 **BUREAU.**

8 (a) NATIONAL IMMIGRATION BUREAU; DIRECTOR.—

9 (1) IN GENERAL.—There is established in the
10 Department of Justice a bureau to be known as the
11 National Immigration Bureau (in this Act referred
12 to as the “Bureau”).

13 (2) DIRECTOR.—The head of the Bureau shall
14 be the Director of the National Immigration Bureau
15 (in this Act referred to as the “Director”) who—

16 (A) shall be a citizen of the United States;

17 (B) shall be appointed by the President, by
18 and with the advice and consent of the Senate;
19 and

20 (C) shall report directly to the Attorney
21 General or the Attorney General’s delegate.

22 (3) COMPENSATION.—Such Director shall be
23 paid at the rate of basic pay payable for level IV of
24 the Executive Schedule (as listed in section 5315 of
25 title 5, United States Code).

26 (4) FUNCTIONS.—Such Director—

1 (A) shall be charged with any and all re-
2 sponsibilities and authority in the administra-
3 tion of the Bureau and of the Immigration and
4 Nationality Act which are conferred upon the
5 Attorney General as may be delegated to the
6 Director by the Attorney General or which may
7 be prescribed by the Attorney General; and

8 (B) shall perform such functions as are
9 transferred to the Director by this section or
10 this Act or otherwise vested in the Director by
11 law.

12 (b) ASSISTANT DIRECTOR FOR COMMUNITY LIAI-
13 SON.—Within the Office of the Director of the National
14 Immigration Bureau, there shall be an Assistant Director
15 for Community Liaison. The Assistant Director shall be
16 charged with any and all responsibilities and authority
17 which are conferred upon the Director as may be delegated
18 to him or her by the Director, or which may be prescribed
19 by the Director, relating to the following:

20 (1) Accountability of the Bureau to the commu-
21 nities it serves.

22 (2) Communication between the Director and
23 such communities.

1 (3) Resolution of issues and concerns that can-
2 not be resolved at a local level or through ordinary
3 administrative channels.

4 (c) TRANSFER OF FUNCTIONS.—There are trans-
5 ferred from the Commissioner of the Immigration and
6 Naturalization Service to the Director of the National Im-
7 migration Bureau all functions performed by the Commis-
8 sioner, and all personnel, infrastructure, and funding pro-
9 vided to the Commissioner, immediately before the effec-
10 tive date of this section.

11 (d) REFERENCES.—With respect to any function
12 transferred from the Commissioner of the Immigration
13 and Naturalization Service by this section or Act to, and
14 exercised on or after the effective date of this section by,
15 the Bureau, reference in any other Federal law, Executive
16 order, rule, regulation, or delegation of authority, or any
17 document of or pertaining to an office from which a func-
18 tion is so transferred—

19 (1) to the head of such office is deemed to refer
20 to the Director of the National Immigration Bureau;
21 or

22 (2) to such office is deemed to refer to the Bu-
23 reau.

1 **SEC. 102. OFFICES WITHIN NATIONAL IMMIGRATION**
2 **BUREAU.**

3 (a) IN GENERAL.—Within the National Immigration
4 Bureau there shall be the following offices, each office to
5 be headed by a deputy director:

6 (1) The Office of Immigration Adjudications.

7 (2) The Office of Immigration Enforcement.

8 (3) The Office of Prehearing Services.

9 (4) The Office of Shared Services.

10 (b) OFFICE OF IMMIGRATION ADJUDICATIONS.—

11 (1) IN GENERAL.—The Deputy Director for Im-
12 migration Adjudications shall be charged with any
13 and all responsibilities and authority which are con-
14 ferred upon the Director of the National Immigra-
15 tion Bureau as may be delegated to the Deputy Di-
16 rector by the Director, or which may be prescribed
17 by the Director, relating to any of the functions de-
18 scribed in paragraphs (3) through (5).

19 (2) DIVISIONS.—Within the Office of Immigra-
20 tion Adjudications there shall be the following divi-
21 sions, each division to be headed by a division chief:

22 (A) The Division of Adjudications.

23 (B) The Division of Refugees, Asylum, Pa-
24 role, and Humanitarian Affairs.

25 (C) The Division of Community Relations.

1 (3) DIVISION OF ADJUDICATIONS.—The Divi-
2 sion Chief of the Division of Adjudications shall be
3 charged with any and all responsibilities and author-
4 ity which are conferred upon the Deputy Director
5 for Immigration Adjudications as may be delegated
6 to the Division Chief by the Deputy Director, or
7 which may be prescribed by the Deputy Director, re-
8 lating to the following functions:

9 (A) Adjudication of petitions for immi-
10 grant or nonimmigrant status.

11 (B) Adjudication of applications for natu-
12 ralization.

13 (C) Inspections, and adjudications of appli-
14 cations for admission, at a port of entry.

15 (D) All other adjudications under the Im-
16 migration and Nationality Act performed by the
17 Immigration and Naturalization Service as of
18 the effective date in section 401(a).

19 (4) DIVISION OF REFUGEES, ASYLUM, PAROLE,
20 AND HUMANITARIAN AFFAIRS.—The Division Chief
21 of the Division of Refugees, Asylum, Parole, and
22 Humanitarian Affairs shall be charged with any and
23 all responsibilities and authority which are conferred
24 upon the Deputy Director for Immigration Adjudica-
25 tions as may be delegated to the Division Chief by

1 the Deputy Director, or which may be prescribed by
2 the Deputy Director, relating to the following func-
3 tions:

4 (A) Adjudication of petitions and applica-
5 tions for admission as a refugee, asylum, or pa-
6 role into the United States.

7 (B) Liaison with international organiza-
8 tions concerned with the protection of refugees
9 and asylum seekers.

10 (5) DIVISION OF COMMUNITY RELATIONS.—The
11 Division Chief of the Division of Community Rela-
12 tions shall be charged with any and all responsibil-
13 ities and authority which are conferred upon the
14 Deputy Director for Immigration Adjudications as
15 may be delegated to the Division Chief by the Dep-
16 uty Director, or which may be prescribed by the
17 Deputy Director, relating to community relations.

18 (c) OFFICE OF IMMIGRATION ENFORCEMENT.—

19 (1) IN GENERAL.—The Deputy Director for Im-
20 migration Enforcement shall be charged with any
21 and all responsibilities and authority which are con-
22 ferred upon the Director of the National Immigra-
23 tion Bureau as may be delegated to the Deputy Di-
24 rector by the Director, or which may be prescribed

1 by the Director, relating to any of the functions de-
2 scribed in paragraphs (3) through (6).

3 (2) DIVISIONS.—Within the Office of Immigra-
4 tion Enforcement there shall be the following divi-
5 sions, each division to be headed by a division chief:

6 (A) The Border Patrol Division.

7 (B) The Division of Removal.

8 (C) The Division of Intelligence and Inves-
9 tigations.

10 (D) The Division of Community Relations.

11 (3) BORDER PATROL DIVISION.—The Division
12 Chief of the Border Patrol Division shall be charged
13 with any and all responsibilities and authority which
14 are conferred upon the Deputy Director for Immi-
15 gration Enforcement as may be delegated to the Di-
16 vision Chief by the Deputy Director, or which may
17 be prescribed by the Deputy Director, relating to the
18 following functions:

19 (A) Border control and enforcement (ex-
20 cluding inspections or adjudications at ports of
21 entry).

22 (B) All other functions performed by the
23 United States Border Patrol as of the effective
24 date in section 401(a).

1 (4) DIVISION OF REMOVAL.—The Division
2 Chief of the Division of Removal shall be charged
3 with any and all responsibilities and authority which
4 are conferred upon the Deputy Director for Immi-
5 gration Enforcement as may be delegated to the Di-
6 vision Chief by the Deputy Director, or which may
7 be prescribed by the Deputy Director, relating to im-
8 plementing the removal of deportable and inadmis-
9 sible aliens from the United States (excluding in-
10 spections or adjudications relating to such remov-
11 als).

12 (5) DIVISION OF INTELLIGENCE AND INVES-
13 TIGATIONS.—The Division Chief of the Division of
14 Intelligence and Investigations shall be charged with
15 any and all responsibilities and authority which are
16 conferred upon the Deputy Director for Immigration
17 Enforcement as may be delegated to the Division
18 Chief by the Deputy Director, or which may be pre-
19 scribed by the Deputy Director, relating to intel-
20 ligence and investigations (including fraud detection
21 and investigation).

22 (6) DIVISION OF COMMUNITY RELATIONS.—The
23 Division Chief of the Division of Community Rela-
24 tions shall be charged with any and all responsibil-
25 ities and authority which are conferred upon the

1 Deputy Director for Immigration Enforcement as
2 may be delegated to the Division Chief by the Dep-
3 uty Director, or which may be prescribed by the
4 Deputy Director, relating to community relations.

5 (d) OFFICE OF PREHEARING SERVICES.—

6 (1) IN GENERAL.—The Deputy Director for
7 Prehearing Services shall be charged with any and
8 all responsibilities and authority which are conferred
9 upon the Director of the National Immigration Bu-
10 reau as may be delegated to the Deputy Director by
11 the Director, or which may be prescribed by the Di-
12 rector, relating to any of the functions described in
13 paragraphs (3) through (6).

14 (2) DIVISIONS.—Within the Office of Pre-
15 hearing Services there shall be the following divi-
16 sions, each division to be headed by a division chief:

17 (A) The Division of Detention.

18 (B) The Division of Alternatives to Deten-
19 tion.

20 (C) The Division of Prehearing Services.

21 (D) The Division of Community Relations.

22 (3) DIVISION OF DETENTION.—The Division
23 Chief of the Division of Detention shall be charged
24 with any and all responsibilities and authority which
25 are conferred upon the Deputy Director for Pre-

1 hearing Services as may be delegated to the Division
2 Chief by the Deputy Director, or which may be pre-
3 scribed by the Deputy Director, relating to detention
4 of aliens (including criminal aliens, noncriminal
5 aliens, and asylum seekers) pending completion of
6 adjudications and appeals or pending removal from
7 the United States. Such responsibilities and author-
8 ity shall be subject to section 301.

9 (4) DIVISION OF ALTERNATIVES TO DETEN-
10 TION.—The Division Chief of the Division of Alter-
11 natives to Detention shall be charged with any and
12 all responsibilities and authority which are conferred
13 upon the Deputy Director for Prehearing Services as
14 may be delegated to the Division Chief by the Dep-
15 uty Director, or which may be prescribed by the
16 Deputy Director, relating to alternatives to detention
17 of aliens pending completion of adjudications and
18 appeals or pending removal from the United States
19 (such as supervised release programs) and methods
20 to ensure required appearances by aliens with re-
21 spect to adjudications. Such responsibilities and au-
22 thority shall be subject to section 301.

23 (5) DIVISION OF PREHEARING SERVICES.—The
24 Division Chief of the Division of Prehearing Services
25 shall be charged with any and all responsibilities and

1 authority which are conferred upon the Deputy Di-
2 rector for Prehearing Services as may be delegated
3 to the Division Chief by the Deputy Director, or
4 which may be prescribed by the Deputy Director, re-
5 lating to the following functions:

6 (A) Prehearing services for aliens.

7 (B) Access by aliens to legal representation
8 in adjudications.

9 (6) DIVISION OF COMMUNITY RELATIONS.—The
10 Division Chief of the Division of Community Rela-
11 tions shall be charged with any and all responsibil-
12 ities and authority which are conferred upon the
13 Deputy Director for Prehearing Services as may be
14 delegated to the Division Chief by the Deputy Direc-
15 tor, or which may be prescribed by the Deputy Di-
16 rector, relating to community relations.

17 (e) OFFICE OF SHARED SERVICES.—The Deputy Di-
18 rector for Shared Services shall be charged with any and
19 all responsibilities and authority which are conferred upon
20 the Director of the National Immigration Bureau as may
21 be delegated to the Deputy Director by the Director, or
22 which may be prescribed by the Director, relating to pro-
23 viding operational support to all offices of the Bureau (in-
24 cluding coordination among such offices).

1 (f) SPECIAL RULE FOR LOCAL OFFICES.—Any local
2 office established to carry out the functions of the Office
3 of Immigration Adjudications shall be separate from any
4 local office established to carry out the functions of the
5 Office of Immigration Enforcement. The preceding sen-
6 tence shall not be construed to inhibit or preclude the co-
7 ordination of functions by the Office of Immigration Adju-
8 dications and the Office of Immigration Enforcement, or
9 by any local offices.

10 **SEC. 103. EXERCISE OF AUTHORITIES.**

11 Except as otherwise provided by law, a Federal offi-
12 cial to whom a function is transferred by this Act may,
13 for purposes of performing the function, exercise all au-
14 thorities under any other provision of law that were avail-
15 able with respect to the performance of that function to
16 the official responsible for the performance of the function
17 immediately before the effective date of the transfer of the
18 function under this Act.

19 **SEC. 104. SAVINGS PROVISIONS.**

20 (a) LEGAL DOCUMENTS.—All orders, determinations,
21 rules, regulations, permits, grants, loans, contracts, agree-
22 ments, certificates, licenses, and privileges—

23 (1) that have been issued, made, granted, or al-
24 lowed to become effective by the President, the At-
25 torney General, the Commissioner of the Immigra-

1 tion and Naturalization Service, their delegates, or
2 any other Government official, or by a court of com-
3 petent jurisdiction, in the performance of any func-
4 tion that is transferred by this Act; and

5 (2) that are in effect on the effective date of
6 such transfer (or become effective after such date
7 pursuant to their terms as in effect on such effective
8 date);

9 shall continue in effect according to their terms until
10 modified, terminated, superseded, set aside, or revoked in
11 accordance with law by the President, any other author-
12 ized official, a court of competent jurisdiction, or operation
13 of law.

14 (b) PROCEEDINGS.—This Act shall not affect any
15 proceedings or any application for any benefits, service,
16 license, permit, certificate, or financial assistance pending
17 on the effective date in section 401(a) before an office
18 whose functions are transferred by this Act, but such pro-
19 ceedings and applications shall be continued. Orders shall
20 be issued in such proceedings, appeals shall be taken
21 therefrom, and payments shall be made pursuant to such
22 orders, as if this Act had not been enacted, and orders
23 issued in any such proceeding shall continue in effect until
24 modified, terminated, superseded, or revoked by a duly au-
25 thorized official, by a court of competent jurisdiction, or

1 by operation of law. Nothing in this section shall be con-
2 sidered to prohibit the discontinuance or modification of
3 any such proceeding under the same terms and conditions
4 and to the same extent that such proceeding could have
5 been discontinued or modified if this section had not been
6 enacted.

7 (c) SUITS.—This Act shall not affect suits com-
8 menced before the effective date in section 401(a), and
9 in all such suits, proceedings shall be had, appeals taken,
10 and judgments rendered in the same manner and with the
11 same effect as if this Act had not been enacted.

12 (d) NONABATEMENT OF ACTIONS.—No suit, action,
13 or other proceeding commenced by or against the Depart-
14 ment of Justice or the Immigration and Naturalization
15 Service, or by or against any individual in the official ca-
16 pacity of such individual as an officer or employee in con-
17 nection with a function transferred by this Act, shall abate
18 by reason of the enactment of this Act.

19 (e) CONTINUANCE OF SUITS.—If any Government of-
20 ficer, in the official capacity of such officer is party to
21 a suit with respect to a function of the officer, and under
22 this Act such function is transferred to any other officer
23 or office, then such suit shall be continued with the other
24 officer or the head of such other office, as applicable, sub-
25 stituted or added as a party.

1 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
2 VIEW.—Except as otherwise provided by this Act, any
3 statutory requirements relating to notice, hearings, action
4 upon the record, or administrative or judicial review that
5 apply to any function transferred by this Act shall apply
6 to the exercise of such function by the head of the office,
7 and other officers of the office, to which such function is
8 transferred by such section.

9 **SEC. 105. TRANSFER AND ALLOCATION OF APPROPRIA-**
10 **TIONS AND PERSONNEL.**

11 (a) IN GENERAL.—The personnel of the Department
12 of Justice employed in connection with the functions
13 transferred by this section (and functions that the Attor-
14 ney General determines are properly related to the func-
15 tions of the Bureau and would, if so transferred, further
16 the purposes of the Bureau), and the assets, liabilities,
17 contracts, property, records, and unexpended balance of
18 appropriations, authorizations, allocations, and other
19 funds employed, held, used, arising from, available to, or
20 to be made available to the Immigration and Naturaliza-
21 tion Service in connection with the functions transferred
22 by this Act, subject to section 202 of the Budget and Ac-
23 counting Procedures Act of 1950, shall be transferred to
24 the Bureau for appropriate allocation by the Director. Un-
25 expended funds transferred pursuant to this subsection

1 shall be used only for the purposes for which the funds
2 were originally authorized and appropriated. The Attorney
3 General shall retain the right to adjust or realign transfers
4 of funds and personnel effected pursuant to this Act.

5 (b) EFFECT ON PERSONNEL.—

6 (1) EFFECT ON INDIVIDUAL EMPLOYEES.—The
7 transfer under this Act of full-time personnel (except
8 special Government employees) and part-time per-
9 sonnel holding permanent positions shall not cause
10 any such employee to be separated or reduced in
11 grade or compensation for 1 year after the date of
12 transfer to the Bureau.

13 (2) COMPENSATION LEVELS.—All transfers of
14 personnel under this Act shall be consistent with em-
15 ployee pay and grade retention entitlement under
16 subchapter VI of chapter 53 of title 5, United States
17 Code, and shall not be reduced for any individual in
18 a career position in the civil service, as of the date
19 of the enactment of this Act.

20 (3) SENIOR EXECUTIVE SERVICE.—A person
21 who, on the day preceding the effective date in sec-
22 tion 401(a), holds a career Senior Executive Service
23 position in the Immigration and Naturalization
24 Service shall be appointed, without a break in serv-
25 ice, to a similar or like position in the Bureau if the

1 person meets the minimum qualifications of such po-
2 sition.

3 (4) ADOPTION OF EXISTING LABOR AGREE-
4 MENTS.—The National Immigration Bureau shall
5 adopt all labor agreements which are in effect, as of
6 the day before the effective date in section 401(a),
7 with respect to the Immigration and Naturalization
8 Service. Each such agreement shall remain in effect
9 for the 2-year period commencing on such date, un-
10 less the agreement provides for a shorter duration or
11 the parties agree otherwise before such period ends.

12 (c) NUMBER OF AUTHORIZED PERSONNEL.—Noth-
13 ing in this Act shall be interpreted to decrease the number
14 of authorized positions within each program as it exists
15 on the date of the enactment of this Act in the Immigra-
16 tion and Naturalization Service.

17 (d) DELEGATION AND ASSIGNMENT.—Except as oth-
18 erwise expressly prohibited by law or otherwise provided
19 in this Act, the Director may delegate any of the functions
20 so transferred to such officers and employees of the Bu-
21 reau as such Director may designate, and may authorize
22 successive redelegations of such functions as may be nec-
23 essary or appropriate. No delegation of functions under
24 this subsection or under any other provision of this Act
25 shall relieve the official to whom a function is transferred

1 under this Act of responsibility for the administration of
2 the function.

3 (e) AUTHORITIES OF ATTORNEY GENERAL.—

4 (1) INCIDENTAL TRANSFERS.—The Attorney
5 General (or a delegate of the Attorney General), at
6 such time or times as the Attorney General (or the
7 delegate) shall provide, may make such determina-
8 tions as may be necessary with regard to the func-
9 tions transferred by this Act, and to make such ad-
10 ditional incidental dispositions of personnel, assets,
11 liabilities, grants, contracts, property, records, and
12 unexpended balances of appropriations, authoriza-
13 tions, allocations, and other funds held, used, arising
14 from, available to, or to be made available in connec-
15 tion with such functions, as may be necessary to
16 carry out the provisions of this Act. The Attorney
17 General shall provide for such further measures and
18 dispositions as may be necessary to effectuate the
19 purposes of this Act.

20 (2) TREATMENT OF SHARED RESOURCES.—The
21 Attorney General shall provide for an appropriate al-
22 location, or coordination, or both, of resources in-
23 volved in supporting shared support functions for
24 the Bureau and other offices within the Department
25 of Justice. Such shared support functions may in-

1 clude information resources management, human re-
2 sources and training, security, records and forms
3 management, equal opportunity activities, and facili-
4 ties and procurement administration. The Attorney
5 General, through the Justice Management Division,
6 shall maintain oversight and control over the shared
7 computer databases and systems and records man-
8 agement.

9 **SEC. 106. STATUTORY CONSTRUCTION.**

10 Nothing in this Act may be construed to preclude or
11 limit in any way the powers, authorities, or duties of the
12 Secretary of State and special agents of the Department
13 of State and the Foreign Service under the State Depart-
14 ment Basic Authorities Act of 1956, the Immigration and
15 Nationality Act, or any other Act to investigate illegal
16 passport or visa issuance or use.

17 **SEC. 107. IMPLEMENTATION PLAN.**

18 (a) IN GENERAL.—The Attorney General, not later
19 than one year after the date of the enactment of this Act,
20 shall submit to the Committees on the Judiciary of the
21 House of Representatives and of the Senate an implemen-
22 tation plan that details, consistent with this Act, an orga-
23 nizational structure for the National Immigration Bureau
24 at the national and local levels. Such structure shall en-
25 sure accountability by, and coordination among, the offices

1 of the Bureau. The plan shall address the severe manage-
2 ment problems within the Immigration and Naturalization
3 Service on the date of the enactment of this Act by includ-
4 ing provisions that will prevent these problems from being
5 perpetuated within the National Immigration Bureau. The
6 plan shall also address the issues of chain of command,
7 shared services, file and data management and oversight,
8 financial management systems, fraud detection and inves-
9 tigation, and establishment of a transition team.

10 (b) CONSULTANT.—The Attorney General shall enter
11 into a contract with a private entity specializing in man-
12 agement consulting requiring the entity to conduct a study
13 of the management problems within the Immigration and
14 Naturalization Service and to issue a report containing
15 recommendations that will prevent these problems from
16 being perpetuated within the National Immigration Bu-
17 reau.

18 **SEC. 108. DEFINITIONS.**

19 For purposes of this title:

20 (1) The term “function” includes any duty, ob-
21 ligation, power, authority, responsibility, right, privi-
22 lege, activity, or program.

23 (2) The term “office” includes any office, ad-
24 ministration, agency, bureau, institute, council, unit,
25 organizational entity, or component thereof.

1 **TITLE II—AMENDMENTS TO IM-**
2 **MIGRATION AND NATION-**
3 **ALITY ACT**

4 **SEC. 201. REMOVAL OF CERTAIN LIMITATIONS ON ELIGI-**
5 **BILITY FOR ADJUSTMENT OF STATUS UNDER**
6 **SECTION 245(i).**

7 Section 245(i)(1) of the Immigration and Nationality
8 Act (8 U.S.C. 1255(i)(1)) is amended by striking “(i)(1)”
9 through “The Attorney General” and inserting the fol-
10 lowing:

11 “(i)(1) Notwithstanding the provisions of subsections
12 (a) and (c) of this section, an alien physically present in
13 the United States who—

14 “(A) entered the United States without inspec-
15 tion; or

16 “(B) is within one of the classes enumerated in
17 subsection (c) of this section;

18 may apply to the Attorney General for the adjustment of
19 his or her status to that of an alien lawfully admitted for
20 permanent residence. The Attorney General”.

21 **SEC. 202. USE OF FEES FOR PROVIDING ADJUDICATION**
22 **AND NATURALIZATION SERVICES.**

23 (a) FINDING.—The Congress finds that the policy of
24 the United States is generally to fund naturalization ac-
25 tivities under title III of the Immigration and Naturaliza-

tion Act (8 U.S.C. 1401 et seq.) through the appropriation of sums under appropriations Acts.

(b) PROHIBITION ON IMPOSITION OF FEES ON ASYLUM OR REFUGEE APPLICANTS.—

(1) REFUGEES.—Section 207(c) of the Immigration and Nationality Act (8 U.S.C. 1157(c)) is amended by adding at the end the following:

“(5) The Attorney General may not impose a fee on an alien applying for admission as a refugee, or as a spouse or child accompanying or following to join such a refugee, in accordance with this section.”.

(2) ASYLUM.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following:

“(4) PROHIBITION ON IMPOSITION OF FEE.—The Attorney General may not impose a fee on an alien applying for asylum in accordance with this section or section 235(b), or a spouse or child applying to accompany or follow to join an alien granted asylum under subsection (b).”.

(c) TREATMENT OF FEES FOR ADJUDICATION AND NATURALIZATION SERVICES.—Subsections (m), (n), (o), and (p) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) are amended to read as follows:

1 “(m) ADJUDICATION AND NATURALIZATION FEES.—

2 (1) Notwithstanding any other provisions of law except
3 subsection (n), all immigration adjudication and natu-
4 ralization fees as are designated by the Attorney General
5 in regulations shall be deposited as offsetting receipts into
6 one of the accounts established by this subsection, whether
7 collected directly by the Attorney General or through
8 clerks of courts, except that—

9 “(A) all fees received by the Attorney General
10 from applicants residing in the Virgin Islands of the
11 United States and in Guam, under this subsection
12 shall be paid over to the treasury of the Virgin Is-
13 lands and to the treasury of Guam; and

14 “(B) fees for providing immigration adjudica-
15 tion and naturalization services shall be set at a level
16 that, taking into account the appropriations to carry
17 out these activities, is not higher than the amount
18 necessary to recover any balance of the cost of pro-
19 viding such services that is not funded through such
20 appropriations (including, subject to subsection (o),
21 the costs of similar services provided without charge
22 to applicants for admission as a refugee, asylum ap-
23 plicants, or other immigrants).

24 “(2) Except as provided in paragraph (1), naturaliza-
25 tion fees that are subject to paragraph (1) and are im-

1 posed due to a lack of appropriated amounts shall be de-
2 posited as offsetting receipts into a separate account enti-
3 tled ‘Naturalization Fee Account’ in the Treasury of the
4 United States, and shall remain available until expended
5 to the Attorney General to reimburse any appropriation
6 the amount paid out of such appropriation for expenses
7 in providing naturalization services. Notwithstanding the
8 preceding sentence, deposits into such account may not
9 be expended for the costs of providing naturalization serv-
10 ices, unless the Attorney General determines, in the Attor-
11 ney General’s discretion, that the appropriation to carry
12 out these activities is inadequate to fully fund them.

13 “(3) Except as provided in paragraph (1), immigrant
14 and nonimmigrant petition fees (excluding any fee col-
15 lected at a port of entry) that are subject to paragraph
16 (1) shall be deposited as offsetting receipts into a separate
17 account entitled ‘Immigrant and Nonimmigrant Fee Ac-
18 count’ in the Treasury of the United States, and shall re-
19 main available until expended to the Attorney General to
20 reimburse any appropriation the amount paid out of such
21 appropriation for expenses in providing services in connec-
22 tion with petitions for immigrant or nonimmigrant status.

23 “(4) Except as provided in paragraph (1), fees col-
24 lected by the Attorney General at a port of entry that are
25 subject to paragraph (1) shall be deposited as offsetting

1 receipts into a separate account entitled ‘Admission Fee
2 Account’ in the Treasury of the United States, and shall
3 remain available until expended to the Attorney General
4 to reimburse any appropriation the amount paid out of
5 such appropriation for expenses in providing immigration
6 inspection and adjudication services at ports of entry.

7 “(5) Except as provided in paragraph (1), all other
8 immigration adjudication fees that are subject to para-
9 graph (1) shall be deposited as offsetting receipts into a
10 separate account entitled ‘Miscellaneous Adjudication Fee
11 Account’ in the Treasury of the United States, and shall
12 remain available until expended to the Attorney General
13 to reimburse any appropriation the amount paid out of
14 such appropriation for expenses in providing immigration
15 adjudication services that are not described in paragraphs
16 (2) through (4).

17 “(n) SPECIAL RULE FOR SECTION 245(i).—Fees re-
18 mitted under section 245(i) shall be deposited as offsetting
19 receipts into a separate account entitled ‘245(i) Applica-
20 tion Fee Account’ in the Treasury of the United States,
21 and shall remain available until expended to the Attorney
22 General to reimburse any appropriation the amount paid
23 out of such appropriation for functions performed by the
24 Office of Immigration Adjudications of the National Immi-
25 gration Bureau.

1 “(o) SPECIAL RULE FOR SERVICES PROVIDED WITH-
2 OUT CHARGE.—Deposits into any account established
3 under subsection (m) or (n) may not be expended for the
4 costs of providing immigration adjudication and natu-
5 ralization services without charge to applicants for admis-
6 sion as a refugee, asylum applicants, or other immigrants,
7 unless the Attorney General determines, in the Attorney
8 General’s discretion, that the appropriation to carry out
9 these activities is inadequate to fully fund them.

10 “(p) PROHIBITED USES OF FEES; ACCOUNTING FOR
11 FEES.—(1) Deposits into any account established under
12 subsection (m) or (n) may not be expended for—

13 “(A) safeguarding or accounting for fees depos-
14 ited in, or funds reimbursed from, any such account;
15 or

16 “(B) capital investments, facilities, technology
17 development, data or communications infrastructure,
18 oversight, audits, or functions of the Inspector Gen-
19 eral.

20 “(2) The Attorney General shall prepare and submit
21 annually to Congress statements of financial condition of
22 each of the accounts established under subsections (m)
23 and (n), including beginning account balance, revenues,
24 withdrawals, and ending account balance and projections
25 for the ensuing fiscal year.”.

1 (d) CONFORMING AMENDMENTS.—

2 (1) SECTION 245(i).—Section 245(i) of the Im-
3 migration and Nationality Act (8 U.S.C. 1255(i)) is
4 amended by striking paragraph (3).

5 (2) SECTION 286(r).—Section 286(r)(2) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1356(r)(2)) is amended by striking “Justice, and
8 amount described in section 245(i)(3)(b).” and in-
9 serting “Justice.”.

10 **TITLE III—GENERAL POLICY**
11 **AGAINST DETENTION OF ASY-**
12 **LUM SEEKERS**

13 **SEC. 301. ALTERNATIVES TO DETENTION OF ASYLUM**
14 **SEEKERS.**

15 (a) FINDING.—The Congress finds that the policy of
16 the United States is generally not to detain asylum seekers
17 who have established a credible fear of persecution.

18 (b) DEVELOPMENT OF ALTERNATIVES TO DETEN-
19 TION.—In consultation with private nonprofit voluntary
20 agencies with expertise in meeting the legal, spiritual, cul-
21 tural, and psychological needs of asylum seekers, the At-
22 torney General shall develop alternatives to detention, and
23 procedures to ensure their maximum feasible use, that
24 shall at a minimum take into account specific alternatives
25 to the detention of asylum seekers, including—

1 (1) unsupervised release from detention, includ-
2 ing the Asylum Pre-Screening Officer Program, as
3 defined in the Immigration and Naturalization Serv-
4 ice Memorandum of April 20, 1992;

5 (2) for individuals not otherwise qualified for
6 release under paragraph (1), parole supervised by
7 private nonprofit voluntary agencies with expertise
8 in meeting the legal, spiritual, cultural, and psycho-
9 logical needs of asylum seekers;

10 (3) for individuals not otherwise qualified for
11 release under paragraph (1) or (2), non-secure shel-
12 ter care or group homes supervised by private non-
13 profit voluntary agencies with expertise in meeting
14 the legal, spiritual, cultural, and psychological needs
15 of asylum seekers; and

16 (4) noninstitutional settings for minors, such as
17 foster care or group homes, especially for those with
18 special needs, those age 14 and under, and those in
19 long-term custody of the Attorney General.

20 (c) PROHIBITION RELATING TO MINORS.—The pro-
21 cedures developed by the Attorney General under sub-
22 section (b) shall prohibit detention of minors in adult fa-
23 cilities or facilities housing delinquent minors (except in
24 the case of an alien who is inadmissible or deportable by
25 reason of having committed a criminal offense).

1 (d) ALTERNATIVES TO DETENTION IN CRIMINAL
2 SETTING.—In the case of an asylum seeker not otherwise
3 qualified for release under paragraph (1) or (2) of sub-
4 section (b), for whom the alternatives specified in para-
5 graphs (3) and (4) of subsection (b) are not appropriate,
6 and who is not inadmissible or deportable by reason of
7 having committed a criminal offense, the procedures devel-
8 oped by the Attorney General under subsection (b) shall
9 include alternatives to detention in detention facilities
10 used for the incarceration of persons convicted of a crimi-
11 nal offense.

12 (e) DEFINITIONS.—In this section:

13 (1) The term “asylum seeker” means any appli-
14 cant for asylum under section 208 of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1158) or any
16 alien who indicates an intention to apply for asylum
17 under that section and who has been found by an
18 asylum officer to have a credible fear of persecution.

19 (2) The term “credible fear of persecution” has
20 the meaning given the term in section
21 235(b)(1)(B)(v) of the Immigration and Nationality
22 Act (8 U.S.C. 1225(b)(1)(B)(v)).

TITLE IV—GENERAL PROVISIONS

SEC. 401. EFFECTIVE DATES.

(a) NATIONAL IMMIGRATION BUREAU.—The transfer of functions under title I shall take effect on the date that is 2 years after the date of the enactment of this Act. The National Immigration Bureau shall be established, and the Director, deputy directors, and division chiefs of such Bureau shall be appointed, not later than such effective date.

(b) REMOVAL OF LIMITATIONS ON ADJUSTMENT OF STATUS UNDER SECTION 245(i).—The amendment made by section 201 shall be effective as if included in the enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119; 111 Stat. 2440).

(c) FEES.—The amendments made by section 202 shall take effect on the date that is 2 years after the date of the enactment of this Act and shall apply to immigration adjudication and naturalization services performed and to related fees collected on or after such date.

(d) OTHER PROVISIONS.—The remaining provisions of this Act shall take effect on the date of the enactment of this Act.

